IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 24TH JANUARY 2007 / 4TH MAGHA 1928

WP(C).No. 31550 of 2006(E)

PETITIONER:

M/S. HOTEL HIGHWAY PALACE, NH-47,
PEECHI JUNCTION, PATTIKKAD, TRICHUR
REPRESENTED BY ITS MANAGING PARTNESR JOHN JOSEPH,
AGED 53 YEARS, S/O.JOSEPH, PARAKKAL HOUSE,
WARIAM LANE, MANNUTHI P.O., TRICHUR.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS:

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1. GROUP GENERAL MANAGER,
INDIAN RAILWAYS CATERING AND TROURISM
CORPORATION LTD., 6A, THES RAIN TREE PLACE,
NO.9, MC NICHOLAS ROAD, CHENNAI.

2. ASSISTANT GENERAL MANAGER,
INDIAN RAILWAYS CATERING AND TOURISM
CORPORATION LTD., REGIONAL OFFICE,
NANDINI, 107, CANAL ROAD, GIRI NAGAR,
ERNAKULAM-683 020.

3. GENERAL MANAGER,
NESTLE INDIA LTD., (NESTLE FOOD SERVICES)
6TH FLOOR, SPENSER PLAZA, 769, ANNA SALAI,
CHENNAI-600 002.

R1&2 BY ADV. SRI.M.C.CHERIAN,SC,RAILWAY CATERING
R3 BY ADV. SRI.BIJU ABRAHAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE RELEVANT PORTION OF THE TENDER DOCUMENT.

P2: TRUE COPY OF THE AGREEMENT DT.10.3.2005 ENTERED INTO BETWEEN THE PETITIONER AND R2.

P3: TRUE COPY OF THE LETTER DT.25.11.2002.

P4: TRUE COPY OF THE SKETCH SHOWING THE ALLOTMENT OF SITE TO THE PETITIONER.

P5: TRUE COPY OF THE PETITION DT.25.11.2006 SUBMITTED BY THE PETITIONER BEFORE R1.

P6: TRUE COPY OF LETTER DT.28.9.2006 OF DIVISIONAL MANAGER, COMMERCIAL BRANCH, TRIVANDRUM.

P7: TRUE COPY OF THE PHOTOGRAPH SHOWING THE STALL NEAR THE PETITIONER'S FOOD PLAZA.

P8: TRUE COPY OF PHOTOGRAPH SHOWING THE STALL NEAR THE PETITIONER'S FOOD PLAZA.

RESPONDENT'S EXHIBITS:

R3A: TRUE COPY OF THE RELEVANT PAGES OF THE BID DOCUMENT OF AVM DISPENSING KIOSKS AT RAILWAY STATIONS.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.31550 of 2006

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Dated this the 24th day of January, 2007.

JUDGMENT

The petitioner is running a food plaza in platform No.1 at the Ernakulam South Railway Station. The first respondent has taken over catering in Railways and therefore, facility is granted to the petitioner by first respondent. However, petitioner's case is that without concurrence of the first respondent, Railway has permitted a coffee vending machine and a sales outlet for food items, though in packed form, in front of petitioner's food plaza. Counsel for the petitioner has now produced a communication received by the petitioner from the Assistant Divisional Engineer, Southern Railway, Ernakulam requesting the first respondent to shift the location of the coffee vending machine granted to third respondent. Counsel for third respondent and Standing Counsel for Railways have no confirmation about the said letter. In any case I find force in petitioner's contention that permitting a coffee and snacks shop in front of his food plaza will affect his business in more than one way. In the first place, customers otherwise going to petitioner's shop will be attracted to third respondent's shop. Secondly, it would be a hindrance and nuisance to have another business

conducted just in front of petitioner's shop. In the circumstances, W.P. is disposed of directing the first respondent to shift location of third respondent to another convenient place in the Railway Station sufficiently away from the location of petitioner's food plaza, but at the same time in an area convenient to passengers.

C.N.RAMACHANDRAN NAIR
Judge

pms